

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION)	CASE NO. 1:17-MD-2804
)	SPECIAL MASTER COHEN
THIS DOCUMENT RELATES TO:)	
"All Cases")	
)	DISCOVERY RULING NO. 14, PART 16
)	REGARDING WALGREENS'
)	PRIVILEGE CLAIMS

During Track Three discovery, defendant Walgreens withheld production of certain documents based on attorney-client privilege. Plaintiffs took issue with a number of those decisions, and the parties engaged in a productive meet-and-confer process that narrowed the number of disputed documents. Plaintiffs requested *in camera* review of ten of the remaining disputed documents. Walgreens submitted the disputed documents to the Special Master for *in camera* review and both parties submitted a chart summarizing their arguments regarding each contested document. Walgreens also submitted a letter brief detailing its arguments in support of privilege. Having considered these submissions carefully, the Special Master now rules on the challenged documents.

I. Legal Standards.

The Special Master has applied the legal standards and authorities set out in all prior "Discovery Rulings No. 14, Part x," and incorporates them by reference.¹ See, e.g., *Ziegler v.*

¹ See, e.g., docket nos. 1321, 1353, 1359, 1380, 1387, 1395, 1498, 1593, 1610, and 1666.

Allstate Ins. Co., 2007 WL 1087607 at *1 (N.D. Ohio Apr. 9, 2007) (a “communication is not privileged simply because it is made by or to a person who happens to be an attorney. To be privileged, the communication must have the *primary* purpose of soliciting legal, rather than business, advice.”) (internal quotation marks and citations omitted, emphasis in original); *see also Fed. Trade Comm’n v. Abbvie, Inc.*, 2015 WL 8623076 at *9 (E.D. Pa. Dec. 14, 2015) (“attorney-client privilege does not apply . . . if the client seeks regulatory advice for a business purpose”). Also, when asserting attorney-client privilege, “[t]he burden of establishing the existence of the privilege rests with the person asserting it.” *United States v. Dakota*, 197 F.3d 821 at 825 (6th Cir. 2000). “Claims of attorney-client privilege are ‘narrowly construed because [the privilege] reduces the amount of information discoverable during the course of a lawsuit.’” *In re Columbia/HCA*, 293 F.3d 289 at 294 (quoting *United States v. Collins*, 128 F.3d 313, 320 (6th Cir. 1997)).

II. Rulings.

E04192158		All redactions sustained.
E04192456		All redactions overruled.
EM00609142		Walgreens has withdrawn its privilege claim.
EM02522884		Walgreens has withdrawn its privilege claim.
EM02545852		Walgreens has withdrawn its privilege claim.
EM04247400		Walgreens has withdrawn its privilege claim.
EM04303979		Sustained.
EM04442268		Sustained.
EM04499994		Walgreens has withdrawn its privilege claim.
EM04688198		Sustained as to the language on page 1 beginning with “Forwarded by Suzanne Hanson” though the language at the bottom of page 1 ending with “please contact the sender at . . . ,” and overruled as to the remainder.

III. Objections.

Any party choosing to object to any aspect of this Ruling must do so on or before January 11, 2021.

RESPECTFULLY SUBMITTED,

/s/ David R. Cohen
David R. Cohen
Special Master

Dated: January 4, 2021